

REMARKS/ARGUMENTS

Claims 1-5, 8-14, 27-30, 32, and 37-42 are rejected in an Office Action dated October 1, 2009. No Claims have been amended. No Claims have been canceled. No new matter has been added. Applicants respectfully request reconsideration of the present application in view of the following remarks.

Claim Rejections - 35 USC §103

I. Claims 1-5, 8-14, 27-30, 32, 38, and 40-42 are rejected under 35 USC §103(a) as being unpatentable over Lin US 6,619,499 (hereinafter “Lin”) in view of Jones US 5,732,837 (hereinafter “Jones”).

It is suggested that Lin shows a removable processing cap assembly 24 comprising a cap 31 comprising a cap 22 having a top 26 and a bottom (at 30), said cap 22 comprising a housing 28 with a sealing perimeter (at 38) at the top of the cap adjoined to a conformable section 30, said conformable section having an internal recess 28 for engaging with a stopper and for sealing around a container opening 34, wherein said cap 22 allows vapor passage between the container and an external atmosphere, a venting media 40 oriented at the top of the cap 22 and external to said container opening 34 forming a barrier isolating the container from the external atmosphere.

Applicants respectfully disagree with this rejection, and request withdrawal.

Under MPEP §2143.01, the claimed combination cannot change the principle of operation of the primary reference or render the reference inoperable for its intended purpose. Thus, it is improper to find prima facie obviousness in the matter as the primary reference (Lin) cannot be combined with Jones, as suggested, without changing the principle of operation of Lin.

What Lin teaches is a venting system that is autoclavable and which MUST be formed of a porous sintered powder metal (col. 1, line 66, col. 2, lines 15-21 and lines 9-10.). Thus, one of skill in the art would not substitute a polymer film (of Jones) into the teaching recited by Lin, as it would fail to provide a system with the requisite teachings.

Thus under MPEP §2143.01, the proposed modification would render the prior art unsatisfactory for its intended purpose. Modification of the all metal venting system to receive a polymer film venting media would render the system unsatisfactory for its intended purpose of using autoclave techniques to easily sanitize a system made of the same metal which responded to temperature changes in the same manner as required by Lin (col. 1, line 62 – col. 2, line 21).

It is well known and recited in MPEP §2143 that "[i]f a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)

Further, the proposed modification cannot change the principle of operation of a reference. Here, Lin operates an easily sanitizable container which is made of the same materials to respond to temperature changes in the same manner (col 1, lines 16-19). If the material requirement were changed, the principle of operation would be destroyed.

In MPEP §2143.01 it is recited that "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)."

Accordingly, for the foregoing reasons, the Examiner is requested to reconsider and withdraw the 35 USC §103(a) rejection.

II. Claims 37 and 39 are further rejected under 35 USC §103(a) as being unpatentable over Lin in view of Jones as applied to claims 1, 32 as above, and further in view of Grimard US 5,803,284 (hereinafter "Grimard").

Applicants respectfully disagree with this rejection, and request withdrawal.

As fully discussed above, the cap assembly of Lin cannot be modified by Jones. Thus the teachings of Grimard fail to teach the cap assembly of the present invention, as Grimard has been recited simply to teach the inclusion of a stopper 424 seated in a first position within the processing cap 400.

Accordingly, for the foregoing reasons, the Examiner is requested to reconsider and withdraw the 35 USC §103(a) rejection.

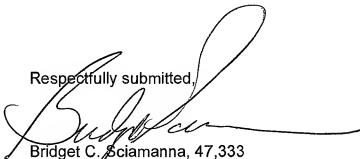
CONCLUSION

Applicants believe that a full and complete response has been made to the pending Office Action and respectfully submit that all of the stated objections and grounds for rejection have been overcome or rendered moot. Accordingly, Applicants respectfully submit that all pending claims are allowable and that the application is in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the Applicants' undersigned representative at the number below to expedite prosecution.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Bridget C. Sciamanna', is written over the typed name and address.

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